

COMMON PLEAS COURT
WARREN COUNTY, OHIO
FILED

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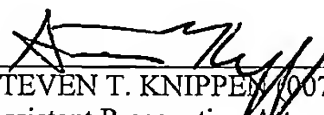
THE STATE OF OHIO, WARREN COUNTY
COURT OF COMMON PLEAS
CRIMINAL DIVISION

STATE OF OHIO,	:	Case No. 17CR33292
Plaintiff,	:	Judge Donald E. Oda II
v.	:	STATE'S MEMORANDUM
BROOKE SKYLAR RICHARDSON,	:	OPPOSING DEFENDANT'S
Defendant.	:	MOTION TO RELEASE GRAND
	:	JURY TESTIMONY FOR IN
	:	CAMERA REVIEW AND
	:	MOTION TO DISMISS
	:	INDICTMENT

Now comes the State of Ohio, by and through the Warren County Prosecuting Attorney, and respectfully asks this Court to deny Defendant's Motion to Release Grand Jury Testimony for In Camera Review and Motion to Dismiss Indictment for the reasons stated in the memorandum attached hereto.

Respectfully Submitted,

DAVID P. FORNSHELL (0071582)
Warren County Prosecuting Attorney


STEVEN T. KNIPPEN (0077886)
Assistant Prosecuting Attorney
Warren County Prosecutor's Office
520 Justice Drive
Lebanon, Ohio 45036

MEMORANDUM

Defendant Brooke Skylar Richardson moves this Court for dismissal of the indictment and in camera review of grand jury testimony. Her motion is groundless. The sole basis of the motion is the fluctuating opinions of an anthropologist who the State does not even intend to call at trial. At the same time, Richardson's motion conveniently ignores substantial additional evidence, which the State provided to the defense almost two years ago and which amply support the offenses with which Richardson has been charged.

Among the evidence that the defense has had in their possession for nearly two years is the video of Richardson's own statements to law enforcement. The Court is aware of those statements; therefore, the State will not describe them in detail in this memorandum. Should the Court desire further elaboration, including direct quotes from Richardson herself, the State reserves the right to provide those details in a supplement to this memorandum.

When considering Richardson's statements to law enforcement, which the defense team is aware of, her suggestion that the State's prosecution of her is unconstitutional is nonsensical. Furthermore, Dr. Murray's varying opinions do not establish that the charges against Richardson are improper. Initially, Dr. Murray's opinions relate only to the charring of the bones. She did not speak to whether the outer layers of the baby's body were burned. Therefore, her opinions do not negate evidence that Richardson burned her baby. They certainly do not negate evidence that Richardson caused the death of her baby, created a substantial risk of health or safety to her baby, or buried her baby. Moreover, nothing in Dr. Murray's wavering opinions or her emails negates the other substantial evidence, which includes Richardson's own statements to law enforcement, which the State will present at Richardson's trial and which fully support the charges against Richardson.

Richardson asks this Court for an in camera review of the grand jury testimony. The disclosure of grand jury testimony is controlled by Crim.R. 6(E). That rule provides, in part, that matters occurring before the grand jury may not be disclosed except “when so directed by the court preliminary to or in connection with a judicial proceeding, or when permitted by the court at the request of the defendant upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury.”

Interpreting that rule, the Ohio Supreme Court held that “[g]rand jury proceedings are secret, and an accused is not entitled to inspect grand jury transcripts either before or during trial unless the ends of justice require it and there is a showing by the defense that a particularized need for disclosure exists which outweighs the need for secrecy.” *State v. Greer* (1981), 66 Ohio St.2d 139, 420 N.E.2d 982, at paragraph two of the syllabus. “Whether particularized need for disclosure of grand jury testimony is shown is a question of fact; but, generally, it is shown where from a consideration of all the surrounding circumstances it is probable that the failure to disclose the testimony will deprive the defendant of a fair adjudication of the allegations placed in issue by the witness’ trial testimony.” *Id.* at paragraph three of the syllabus.

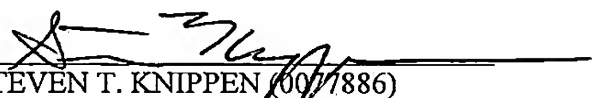
Richardson’s motion fails to show a particularized need for disclosure of the grand jury testimony. As set forth above, the State’s evidence against her, which includes her own statements to law enforcement, establish that the State’s prosecution of her is proper.

For the reasons set forth above, the State asks this Court to deny Defendant’s Motion to

Release Grand Jury Testimony for In Camera Review and Motion to Dismiss Indictment.

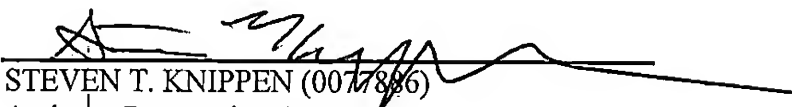
Respectfully Submitted,

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document was mailed via ordinary mail on this 14th day of August, 2019 to counsel for Defendant: Charles H. Rittgers and Charles M. Rittgers, 12 East Warren Street, Lebanon, Ohio 45036.


STEVEN T. KNIPPEN (0077886)
Assistant Prosecuting Attorney
Warren County Prosecutor's Office